

RESPONSIVENESS SUMMARY
CONCERNING EPA'S AUGUST 30, 2002
PUBLIC NOTICE PROPOSING NUMEROUS TMDLs
FOR WATERS IN THE STATE OF GEORGIA

Public Participation Activity Conducted:

On August 30, 2002, EPA Region 4 published an abbreviated public notice in the legal advertising section of the Atlanta Journal Constitution. Additionally, Region 4 mailed copies of a detailed public notice to the Georgia Environmental Protection Division (EPD), the Plaintiffs in the Georgia Total Maximum Daily Load (TMDL) lawsuit against EPA (Sierra Club et al. v. John Hankinson et al., Civil Action 1-94-cv-2501-MHS), and persons, identified as potentially interested parties, on a mailing list maintained by Region 4. This public notice requested comments from the public on EPA's proposed TMDLs for a significant number of water quality limited segments in the State of Georgia.

Matters on Which Public Was Consulted:

As a result of settlement negotiations in the Georgia TMDL lawsuit against EPA (Sierra Club et al. v. John Hankinson et al., Civil Action 1:94-cv-2501-MHS), EPA had the following commitment:

“If Georgia fails to propose for public comment by August 30, 2002, TMDLs for each waterbody identified in Georgia’s 2002 Section 303(d) list, whether such Section 303(d) list is prepared by Georgia or by EPA, and that is located in the Chattahoochee and Flint Basins, then EPA shall propose such TMDLs by August 30, 2002. In the event EPA proposes such TMDLs, EPA will establish TMDLs following public notice and comment within a reasonable time, and, where significant comment is not received, expects to establish TMDLs by February 28, 2003, unless Georgia submits and EPA approves such TMDLs prior to EPA establishing such TMDLs.”

The public was consulted on proposed TMDLs for the water quality limited segments in the Chattahoochee and Flint Basins of the State of Georgia. The proposed TMDLs are identified in the attached list. EPA Region 4 had received and evaluated water quality-related data and information about these waters and pollutants and had prepared documents supporting the preliminary determinations of these evaluations.

Additionally, the public was consulted on proposed **toxicity** TMDLs for waters in the Chattahoochee Basin. On August 30, 2002, EPA had announced the availability of a proposed **toxicity** TMDL for the following water quality limited segments and pollutants of concern included on Georgia’s 2002 §303(d) list:

<i>WATERBODY</i>	<i>POLLUTANT OF CONCERN</i>
CHATTAHOOCHEE RIVER BASIN	
Chattahoochee River (Mineral Springs Branch) - Coweta County, GA (HUC 03130002)	Toxicity

On August 30, 2002, EPA had developed a revised, proposed **toxicity** TMDL for the aforementioned water quality limited segment in the Chattahoochee River Basin. At that time, EPA withdrew the previously proposed TMDL. EPA extended the comment period for an additional thirty days at the request of the public. The public comment period closed on October 30, 2002

The following persons provided written comments or written request for copies of the proposed TMDL during the public comment period:

1. John Marlar via e-mail
September 4, 2002 and October 16, 2002
2. Ian Lundberg, et. al. Principal Engineer
Resolve Environmental Engineering, Inc.
1444 Waterford Green Drive,
Marietta, Georgia 30068-2925
October 29, 2002
3. Michele C. Fried, General Counsel
Upper Chattahoochee Riverkeeper
1900 Emery Street, Suite 450
Atlanta, Georgia 30307
October 29, 2003
4. Rita Kilpatrick, Executive Director
Georgians for Clean Energy
427 Moreland Avenue NE, Suite 100
Atlanta, Georgia 30307
October 30, 2002
5. Kesler T. Roberts
Georgia Legal Watch
264 North Jackson Street
Athens, Georgia 30601

October 30, 2002

(2)

6. David L. Bullard
Georgia Department of Natural Resources
Environmental Protection Division
4220 International Parkway, Suite 101
Atlanta, Georgia 30354
September 23, 2002

7. Alan Hallum
Georgia Department of Natural Resources
Environmental Protection Division
4220 International Parkway, Suite 101
Atlanta, Georgia 30354
September 23, 2002

Agency's Specific Responses in Terms of Modifications of the Proposed Action or an Explanation for Rejection of Proposals Made by the Public:

The following are the specific **toxicity** comments and EPA's responses to each of them:

COMMENT

The draft toxicity TMDL seems to attribute all of the toxicity impairment in Mineral Springs Branch to two point sources - W.L. Bonnel Company and Mineral Springs Wastewater Treatment Plant.. EPA has proposed that each point source receive a WLA of 1 toxicity unit ("TU"), which according to the TMDL, translates into no allowable toxicity for these discharges. We recommend that you identify the specific toxic agent or agents in the identified discharges and set a TMDL, if possible, for the specific agent(s). In the interim, the two discharges, Bonnel and Mineral Springs, must have permit limits that reflect no allowable toxicity.

Michelle C. Fried, General Counsel, Upper Chattahoochee Riverkeeper, 1900 Emery Street, Suite 450, Atlanta, Georgia 30318, October 29, 2002

RESPONSE

As described in the August 30, 2002 TMDL report as well as the final TMDL report, the State of Georgia's §303(d) listing of Mineral Springs Branch is solely based on the results of whole effluent toxicity (WET) tests conducted on the effluent from the William L. Bonnel Company Waste Treatment Facility (WTF).

Based on the available data and information, an accurate assessment could not be made to determine the specific toxic agent or agents that may cause or contribute to toxicity in Mineral Springs Branch. The allocations established in this toxicity TMDL provide for protection against toxicity in Mineral Springs Branch.

The final TMDL report for Mineral Springs Branch includes a section titled “NPDES Permitting Process” which describes how the State of Georgia may implement the wasteload allocation as part of its NPDES permitting process. (3)

COMMENT

The toxicity TMDL for Mineral Springs Branch appropriately states that its allocation dictates that there shall be no observable toxic effects from the point and nonpoint sources in the watershed. The TMDL does not however, indicate whether the two identified point sources have toxicity limits in their NPDES permits or, if so, whether there have been any violations of those permits. If toxicity is not directly addressed in those permits, then the TMDL should specifically state that the permit should be modified to do so. Potential nonpoint sources of toxic chemicals should be addressed in the TMDL as well.

Kesler T. Roberts, Georgia Legal Watch, 264 North Jackson Street, Athens, Georgia 30601, October 30, 2002

RESPONSE

The final TMDL report for Mineral Springs Branch includes a section titled “NPDES Permitting Process” which describes how the State of Georgia may implement the wasteload allocation as part of its NPDES permitting process.

The TMDL establishes a load allocation for potential nonpoint sources of toxicity which ensures that any of these potential sources shall not cause or contribute to toxicity in Mineral Springs Branch.

COMMENT

EPD requests that EPA add a sentence to the end of the TMDL that states something like, “an allocation to an individual point source discharger does not automatically result in a permit limit or a monitoring requirement. Through its NPDES permitting process, Georgia will determine whether each of the permitted dischargers has a reasonable potential of causing toxicity in the receiving stream. The results of this measurable potential analysis will determine the specific type of requirements in an individual facility’s NPDES permit.” Statements like this have been included in other TMDLs in the past.

David L. Bullard, Georgia Department of Natural Resources, Environmental Protection Division, 4220 International Parkway, Suite 101, Atlanta, Georgia, 30354, September 23, 2002.

RESPONSE

The final TMDL report for Mineral Springs Branch includes a section titled “NPDES Permitting Process” which describes how the State of Georgia may implement the wasteload allocation as part of its NPDES permitting process.

(4)